

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7115 PCB JDC 17-01 Arthur G. Dozier School for Boys
SPONSOR(S): Judiciary Committee; Harrison; Stafford
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Judiciary Committee	16 Y, 0 N	Camechis	Camechis

SUMMARY ANALYSIS

From January 1, 1900, to June 30, 2011, the state operated a reform school in the panhandle town of Marianna, Florida. The school operated under several different names: the Florida State Reform School (1900-1913), the Florida Industrial School for Boys (1914-1957), the Florida School for Boys (1957-1967), and the Arthur G. Dozier School for Boys (1967-2011). In recent years, former students of the school have come forward to report repeated abuse by staff members, including severe beatings at a structure on school grounds known as the "White House." These men believe that fellow students may have died from abuse and buried on school grounds.

In 2012, researchers from the University of South Florida (USF) began an investigation to determine the location of children buried at the school in order to excavate and repatriate the remains to their families. In January 2016, the researchers issued a report of their findings. The researchers analyzed historical records and determined that nearly 100 boys aged 6 to 18 died at the school between 1900 and 1973. During the investigation, the researchers excavated 55 graves and discovered 55 sets of human remains on the school grounds, only 13 of which were located in Boot Hill Cemetery on Dozier school property. The researchers made 7 positive identifications and 14 presumptive identifications of the remains.

In 2016, the Dozier Task Force, which was created by the Legislature, submitted the following recommendations:

1. The remains of the 1914 dormitory fire victims should be reinterred at Boot Hill Cemetery on Dozier School property.
2. Unidentified or unclaimed remains should be reinterred in Tallahassee.
3. Two memorials should be established, one in Jackson County and one in Tallahassee, Florida, dedicated to the memories of the boys who lived and died at Dozier School, as well as the 1914 dormitory fire victims.

The bill:

1. Implements the three recommendations of the task force.
2. Prohibits the Board of Trustees of the Internal Improvement Trust Fund from conveying Boot Hill Cemetery and the White House, both of which are located on Dozier school grounds.
3. Requires the Department of Environmental Protection to conduct a feasibility study to clear the land of the school and use ground-penetrating radar technology to identify areas with potential burial sites.
4. Names the Department of Law Enforcement's Forensic Training Center in Pasco County the "Thomas Varnadoe Forensic Center for Education and Research." Thomas Varnadoe died at Dozier School on October 26, 1934, just 34 days after he was admitted to the school. His remains were identified by USF after being exhumed as part of its investigation.

Lastly, the bill appropriates \$1.2 million from general revenue to the Department of Management Services to pay for reinterment of remains exhumed from Dozier School and establishment of the memorial.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

BACKGROUND

From January 1, 1900, to June 30, 2011, the state operated a reform school in the panhandle town of Marianna. Over the years, the school operated under several different names: the Florida State Reform School (1900-1913), the Florida Industrial School for Boys (1914-1957), the Florida School for Boys (1957-1967), and, lastly, the Arthur G. Dozier School for Boys (1967-2011).¹ This analysis will refer to the Marianna school as “Dozier School.”

Children were sent to the school for serious crimes, but also for “incorrigibility,” “truancy,” and “dependency.”² Originally, the school housed children as young as 5 years old. As early as 1901, reports surfaced of children being chained to walls in irons, brutal whippings, and peonage (involuntary servitude).³ In the first 13 years of operation, more than 6 state-led investigations took place. Over the years, allegations of severe abuse, including physical and sexual abuse, and suspicious disappearances and death of children in the care of Dozier continued. Of the 100 deaths recorded in historical documents maintained by the school, and available for review up through the year 1960, just two persons who died were staff, and the remaining were boys ranging in age from 6 to 18.⁴ Investigators noted that deaths were significantly underreported.⁵ Also, investigators were able to ascertain a correlation between attempted escapes and mortality of the children.⁶

In 2005, former students of the school began to publish accounts of the abuse they experienced at Dozier.⁷ In 2008, Governor Charlie Crist directed the Florida Department of Law Enforcement (FDLE) to investigate 32 unmarked graves located on the property surrounding the school in response to complaints lodged by former students at Dozier.⁸ Former students of Dozier alleged that fellow students who died as a result of abuse were buried at the school cemetery.⁹ The University of South Florida (USF) subsequently conducted an investigation, which included excavations and exhumations.¹⁰

University of South Florida Investigation

The University of South Florida received funding to determine the location of the children buried at the Dozier School in Marianna.¹¹ Funding was provided by the Legislature, USF, a grant from the National Institute of Justice, the U.S. Department of Justice, and private donations.¹² In January of 2016, the

¹ FDLE Office of Executive Investigations, *Arthur G. Dozier School for Boys, Marianna, Florida, Investigative Summary*, Case No. EI-73-8455 (May 14, 2009).

² Erin H. Kimmerle, Ph.D.; E. Christian Wells, Ph.D.; and Antoinette Jackson, Ph.D.; Florida Institute for Forensic Anthropology & Applied Sciences, University of South Florida, *Report on the Investigation into the Deaths and Burials at the Former Arthur G. Dozier School for Boys in Marianna, Florida*, pg. 12 (Jan. 18, 2016) (on file with the House Judiciary Committee).

³ *Id.*

⁴ *Id.* at 14.

⁵ *Id.* at 22.

⁶ *Id.* at 14.

⁷ *Id.* at 30. The men who had been sent to Dozier from the late 1950’s through the 1960’s organized themselves as “The White House Boys Survivors Organization.”

⁸ Office of Executive Investigations, Florida Department of Law Enforcement, *FDLE Investigative Report* (May 14, 2009); available at <http://thewhitehouseboys.com/fdlereport.html> (last visited March 31, 2017).

⁹ *Id.* at 1.

¹⁰ *Id.* at 4.

¹¹ Erin H. Kimmerle, Ph.D.; E. Christian Wells, Ph.D.; and Antoinette Jackson, Ph.D.; Florida Institute for Forensic Anthropology & Applied Sciences, University of South Florida, *Report on the Investigation into the Deaths and Burials at the Former Arthur G. Dozier School for Boys in Marianna, Florida*, pg. 11 (Jan. 18, 2016) (on file with the Senate Judiciary Committee).

¹² *Id.* at 4.

USF team submitted its report to the Florida Cabinet and Governor, and the Department of Environmental Protection.¹³

Using a forensic team, USF employed a Ground Penetrating Radar at the site of the school to detect graves, followed by archaeological test excavations in those areas.¹⁴ During the course of its investigation, USF excavated 55 graves at Dozier school, discovering 51 sets of human remains.¹⁵ As of April 2017, USF had made 7 positive identifications and 14 presumptive identifications.

1914 Dormitory Fire

During the early morning hours of November 18, 1914, a fatal fire broke out in the dormitory on the south campus.¹⁶ Three investigations followed, each of which shifted the cause of the fire and blame for the deaths; even the number of children who perished differs among the reports.¹⁷ As many as 10 students and guards may have perished in the fire.¹⁸ According to witnesses, the bodies were burned beyond recognition and buried on the school grounds.¹⁹ When graves in the Boot Hill Cemetery on the grounds were excavated by researchers, seven caskets containing burned remains were recovered.²⁰ Remains of other fire victims may have been buried elsewhere on the property.

Thomas Varnadoe²¹

Thomas Varnadoe died on October 26, 1934, 34 days after he was admitted to the school. The school's records indicate Thomas died of pneumonia with a possible contributing cause of anemia. The school's newspaper stated that Thomas was very sickly when he arrived at the school, and that his funeral was well attended by other students. Thomas' family has consistently disputed that Thomas was a sickly child and Thomas' bother, Hubert, who was also an inmate at the school when Thomas died, stated that details in the newspaper article were false, as only he, a preacher, and the man who dug Thomas' grave were present at the funeral.

Similar to the obituary of Varnadoe, USF found that reports in the school's newspaper, The Yellow Jacket, the biennial reports to the State from school officials and school issued press releases were often different from witness testimonies (both historical and contemporary testimonies). Therefore, the historical documents were reviewed carefully by USF and generally not considered primary sources of reliable information.

Class Action Lawsuits

In 1983, Dozier was the subject of a class action regarding the conditions of confinement. Plaintiffs alleged that youth continued to be hogtied, shackled, and held in solitary confinement, amidst media reports that continued to emerge of significant abuse perpetrated by staff on the children.²² In 2011, plaintiffs filed another class action lawsuit against the facility alleging abusive and unsafe conditions of confinement.²³

¹³ Erin H. Kimmerle, Ph.D.; E. Christian Wells, Ph.D.; and Antoinette Jackson, Ph.D.; Florida Institute for Forensic Anthropology & Applied Sciences, University of South Florida, *Report on the Investigation into the Deaths and Burials at the Former Arthur G. Dozier School for Boys in Marianna, Florida* (Jan. 18, 2016).

¹⁴ *Id.* at 11.

¹⁵ Erin H. Kimmerle, Ph.D.; E. Christian Wells, Ph.D.; and Antoinette Jackson, Ph.D.; Florida Institute for Forensic Anthropology & Applied Sciences, University of South Florida, *Report on the Investigation into the Deaths and Burials at the Former Arthur G. Dozier School for Boys in Marianna, Florida*, p. 11 (Jan. 18, 2016).

¹⁶ *Id.* at 59.

¹⁷ *Id.*

¹⁸ Kimmerle, *supra* note 2, at 44.

¹⁹ *Id.* at 11.

²⁰ *Id.* at 44.

²¹ *Id.* at 111-112.

²² In the case of *Bobby M v. Chiles*, 907 F.Supp. 368, 372-373 (N.D. Fla. 1995), the court dismissed with prejudice the consent decree that had been entered into by the class and the defendant, on the basis that the Dozier school had remedied the abuse.

²³ *J.B. v. Walters, et al.*, 4:11-cv-00083-RH (N.D. Fla. 2011).

United States Department of Justice Investigation

On April 7, 2010, the U.S. Department of Justice (DOJ) launched its own investigation of practices at Dozier and at the Jackson Juvenile Offender Center (JJOC), which together comprised the North Florida Youth Development Center (NYFDC). The DOJ found reasonable cause that the NYFDC had committed and was continuing to commit unconstitutional practices and violations of federal law protecting youths from harm.

On May 26, 2011, Florida's Department of Juvenile Justice announced the pending closure of the two facilities at the NYFDC, based on budgetary limitations. The DOJ released its report on conditions at Dozier and JJOC on December 1, 2011.²⁴

2016 Legislation - Dozier Task Force and Funeral Expenses

In 2016, the Legislature passed CS/CS/SB 708²⁵ to create the Dozier Task Force under DOS.²⁶ The task force was required to make recommendations to DOS regarding the creation and maintenance of a memorial, and the location of a site for the reinterment of unidentified or unclaimed remains.²⁷ The task force was required to submit, by October 1, 2016, its recommendations to DOS, the Governor and Cabinet, the President of the Senate, the Speaker of the House of Representatives, and the Minority Leaders of the Senate and the House of Representatives.

The task force submitted the following recommendations:

1. The remains of the 1914 dormitory fire should be reinterred at Boot Hill Cemetery on the Dozier property.
2. Unidentified or unclaimed remains should be reinterred in Tallahassee, with the location to be determined by the Legislature.
3. Two memorials should be established, one in Jackson County and one in Tallahassee. Both memorials should be dedicated to the memories of the boys who lived and died at Dozier, as well as the 1914 dormitory fire victims.

The Legislature also approved payment of up to \$7,500 for each child whose body was buried at and exhumed from the Dozier School for Boys, for funeral, reinterment, and grave marker expenses. The legislation requires the Department of State (Department) to contract with the University of South Florida to identify and locate eligible next of kin for the children. By February 1, 2018, the Department must submit a report to the Governor and Cabinet, the President of the Senate, and the Speaker of the House of Representatives regarding payments and reimbursements made for these expenses.

To fund these provisions, the bill included an appropriation from the General Revenue Fund in the amount of \$500,000 in nonrecurring funds to the Department. The legislation directed any amount remaining as of July 1, 2017, to revert back to General Revenue and be reappropriated for the same purpose in the 2017-2018 fiscal year.

²⁴ U.S. Department of Justice, *Investigation of the Arthur G. Dozier School for Boys and the Jackson Juvenile Offender Center, Marianna, Florida* (Dec. 1, 2011), <https://www.justice.gov/opa/pr/departments-justice-releases-investigative-findings-arthur-g-dozier-school-boys-and-jackson> (last visited March 31, 2017).

²⁵ Chapter 2016-163, Laws of Fla. (CS/CS/SB 708).

²⁶ The Legislature provided for the membership of the task force to include: the Secretary of State, or his or her designee, to serve as chair; an appointee by the President of the Florida State Conference of the National Association for the Advancement of Colored People (NAACP); an appointee from the Florida Council of Churches; an appointee by the Attorney General who is a next of kin of a child buried at Dozier; an appointee by the Chief Financial Officer who promotes the welfare of people who were formerly sent to Dozier; an appointee each by the President of the Senate and the Speaker of the House of Representatives; an appointee by the Jackson County Board of County Commissioners; and an appointee by the Commissioner of Agriculture. *Id.*

²⁷ Ch. 2016-163, Laws of Florida.

Capitol Complex Monuments

A monument²⁸ may not be constructed or placed on the premises of the Capitol Complex unless authorized by general law and unless the design and placement of the monument is approved by the Department of Management Services (DMS) after considering the recommendations of the Florida Historical Commission.²⁹ DMS must coordinate with the Division of Historical Resources of the Department of State regarding a monument's design and placement.³⁰ DMS, in consultation with the Florida Historical Commission, must set aside an area of the Capitol Complex to be dedicated as a memorial garden for the placement of authorized monuments.³¹

Section 281.01, F.S., defines the term "Capitol Complex" as:

[T]hat portion of Tallahassee, Leon County, Florida, commonly referred to as the Capitol, the Historic Capitol, the Senate Office Building, the House Office Building, the Knott Building, the Pepper Building, the Holland Building, and the curtilage of each, including the state-owned lands and public streets adjacent thereto within an area bounded by and including Monroe Street, Jefferson Street, Duval Street, and Gaines Street. The term shall also include the State Capital Circle Office Complex located in Leon County, Florida.

Current law authorizes various memorials for placement at the Capitol Complex, including:

- The Florida Veterans' Walk of Honor;³²
- The Florida Veterans' Memorial Garden;³³
- The POW-MIA Chair of Honor Memorial;³⁴
- Florida Law Enforcement Officers' Hall of Fame;³⁵
- Florida Women's Hall of Fame;³⁶ and
- The Florida Holocaust Memorial.³⁷

Division of Historical Resources

The Division of Historical Resources, which is established within the Department of State,³⁸ in part, is responsible for:

- Developing a comprehensive statewide historic preservation plan.
- Directing and conducting a comprehensive statewide survey of historic resources and maintaining an inventory of such resources.
- Ensuring that historic resources are taken into consideration at all levels of planning and development.
- Providing public information, education, and technical assistance relating to historic preservation programs.³⁹

Florida Historical Commission

The Florida Historical Commission (commission) was established in 2001 to enhance public participation and involvement in the preservation and protection of the state's historic and

²⁸ Section 265.111(1), F.S., defines the term "monument" to mean a permanent structure such as a marker, statue, sculpture, plaque, or other artifice, including living plant material, placed in remembrance or recognition of significant person or event in Florida history. The term does not include any "Official Florida Historical Marker" as defined in s. 267.021, F.S.

²⁹ Section 265.111(2), F.S.

³⁰ *Id.*

³¹ Section 265.111(3), F.S.

³² Section 265.0031, F.S.

³³ *Id.*

³⁴ Section 265.00301, F.S.

³⁵ Section 265.0041, F.S.

³⁶ Section 265.001, F.S.

³⁷ Section 365.005, F.S.

³⁸ Section 20.10(2)(b), F.S.

³⁹ Section 267.031(5), F.S.

archaeological sites and properties.⁴⁰ The commission is part of the Department of State and is tasked with advising and assisting the Division of Historical Resources in carrying out its programs, duties, and responsibilities.⁴¹

The Commission is composed of 11 members. Seven members of the Commission are appointed by the Governor in consultation with the Secretary of State, two by the President of the Senate, and two by the Speaker of the House of Representatives.⁴² The Commission must include:

- A licensed architect with expertise in historic preservation and architectural history;
- A professional historian in the field of American history;
- A professional architectural historian;
- An archaeologist specializing in the field of prehistory;
- An archaeologist specializing in the historic period; and
- Representatives of the public with demonstrated interest in the preservation of Florida's historical and archaeological heritage.⁴³

The Commission must provide assistance, advice, and recommendations to the Division of Historical Resources.⁴⁴ Section 267.0612(9), F.S., also requires the Commission to provide recommendations to DMS on the design and placement of monuments authorized by general law to be placed on the premises of the Capitol Complex.

EFFECT OF PROPOSED CHANGES

Reinterment of Remains

In order to care for the unclaimed remains of victims of the 1914 dormitory fire in a respectful and dignified manner, the Division of Purchasing of the Department of Management Services, pursuant to the procurement provisions in chapter 287, F.S., must: select a licensed removal service, to transport the unclaimed remains of victims of the 1914 dormitory fire from Tampa, Florida, to a funeral establishment in Jackson County, Florida, for preparation for reinterment; and, select a licensed funeral establishment in Jackson County, to prepare the unclaimed remains of victims of the 1914 dormitory fire for burial.

The Division must ensure that the unclaimed remains of victims of the 1914 dormitory fire are reinterred at the Boot Hill Cemetery located at the Arthur G. Dozier School for Boys. The Division, after consulting with the Division of Historical Resources of the Department of State and the University of South Florida, must select and cause to be installed an appropriate and respectful marking of each burial.

In order to care for all remaining unclaimed or unidentified remains in a respectful and dignified manner, the Division, pursuant to the procurement provisions in chapter 287, F.S., must: select a licensed removal service to transport all remaining and unidentified remains from Tampa, Florida, to a funeral establishment in Leon County, Florida, for preparation for reinterment; and, select a licensed funeral establishment in Leon County to prepare the remains for burial. The Division must also select one licensed cemetery in Leon County, Florida, at which the remains will be buried. Lastly, the Division must, after consulting with the Division of Historical Resources of the Department of State and the University of South Florida, select and cause to be installed an appropriate and respectful marking of each burial.

Arthur G. Dozier School for Boys Memorial

⁴⁰ Chapter 2001-199, L.O.F.; codified as s. 267.0612, F.S.

⁴¹ Section 267.0612, F.S.

⁴² Section 267.0612(1)(a)1., F.S.

⁴³ *Id.*

⁴⁴ *See* s. 267.0612(6), F.S.

The bill provides that it is the intent of the Legislature to memorialize the boys who lived and died at the Arthur G. Dozier School for Boys, including the 1914 dormitory fire victims. As such, the bill establishes the Arthur G. Dozier School for Boys Memorial in two locations: one in Tallahassee, Florida, and the other in Jackson County, Florida.

The bill directs the Department of Management Services (DMS) to administer the memorials. DMS must designate an appropriate public area for the Arthur G. Dozier School for Boys Memorial in Tallahassee, Florida, on the premises of the Capitol Complex, not including the State Capital Circle Office Complex. DMS must consider recommendations of the Florida Historical Commission, coordinate with the Division of Historical Resources of the Department of State regarding the design and placement of the memorial, and consider recommendations of former students of the Arthur G. Dozier School for Boys regarding the design of the memorial.

DMS, in consultation with the Division of State Lands of the Department of Environmental Protection and the Jackson County Administrator, must designate an appropriate public area for the Arthur G. Dozier School for Boys Memorial in Jackson County, Florida. DMS must coordinate with the Division of Historical Resources of the Department of State regarding the design and placement of the memorial, and consider recommendations of former students of the Arthur G. Dozier School for Boys regarding the design of the memorial.

Conveyance of Boothill Cemetery and the White House

The bill prohibits the Board of Trustees of the Internal Improvement Trust Fund from conveying Boot Hill Cemetery as well as the structure known as "the White House" and the land upon which the structure is located.

Use of Ground Penetrating Radar

The bill requires the Department of Environmental Protection to develop a proposal to conduct a feasibility study to clear the land of the Arthur G. Dozier School for Boys and use ground-penetrating radar technology to identify areas with potential burial sites. The department must submit the proposal to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1, 2017.

Forensic Training Center

The bill names the Forensic Training Center (HB 3577) in Specific Appropriation 1234 of PCB APC 17-01, General Appropriations Act, the "Thomas Varnadoe Forensic Center for Education and Research."

B. SECTION DIRECTORY:

Section 1. Specifies that this act governs disposition of remains exhumed at the Dozier School.

Section 2. Requires reinterment of remains exhumed at the Dozier School.

Section 3. Establishes the Arthur G. Dozier School for Boys Memorial.

Section 4. Prohibits conveyance of Boothill Cemetery and the White House.

Section 5. Requires a proposal for using technology to identify areas with potential burial sites on Dozier School property.

Section 6. Names the Forensic Training Center.

Section 7. Appropriates \$1.2 million from the General Revenue Fund.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None

2. Expenditures: For the 2017-2018 fiscal year, the sum of \$1.2 million in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Management Services for the purpose of reintering remains exhumed at Dozier School and establishing the memorial. Funds remaining unexpended or unencumbered from this appropriation as of July 1, 2018, revert and will be reappropriated for the same purpose in the 2018-2019 fiscal year.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None
2. Expenditures: None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None

D. FISCAL COMMENTS: None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: Not applicable. The bill does not appear to affect cities or counties.

2. Other: None

B. RULE-MAKING AUTHORITY: Rulemaking authority is granted to the Department of Management Services for purposes of establishing and maintaining the Arthur G. Dozier School for Boys Memorial.

C. DRAFTING ISSUES OR OTHER COMMENTS: None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 6, 2017, the Judiciary Committee adopted a strike-all amendment to PCB JDC 17-01 that:

- Shifted responsibility for reinterments from the Division of Funeral, Cemetery and Consumer Services to the Division of Purchasing within the Department of Management Services.
- Prohibited conveyance of Boot Hill Cemetery and the White House.
- Required a proposal for a feasibility study using technology to identify areas with potential burial sites.
- Redirected the entire appropriation of \$1.2 million to the Department of Management Services instead of appropriating a portion to the Division of Funeral, Cemetery and Consumer Services.

This analysis is drafted to the PCB as amended, which is the bill as filed.